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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/522,608

03/02/2005

Andreas Lucht

AFK-16214-WO-US

8772

30/996

7590

07/14/2008

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SUITE B

TIJERAS, NM 87059-7507

EXAMINER

HAUGLAND, SCOTT J

ART UNIT

PAPER NUMBER

3654

MAIL DATE

DELIVERY MODE

07/14/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/522,608

**Applicant(s)**

LUCHT ET AL.

**Examiner**

Scott Haugland

**Art Unit**

3654

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 17-20 and 22-32 is/are pending in the application.
- 4a) Of the above claim(s) 23-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-20, 22 and 28-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

Claims 23-27 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 4/28/08.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 17-20, 22, and 28-32 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 17, lines 16-17 includes new matter because the application as originally filed does not disclose that the spiral toothing is fixedly disposed on the carrier shaft.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 28 and 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 28, line 3, "aids" should be --aid--.

***Claim Rejections - 35 USC § 102/103***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17, 22, 28, and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Fernandez (U.S. Pat. No. 5,005,777).

Fernandez discloses a belt shaft retractor having a blocking system (including portions of control system 28) and a tensioning device comprising: a spiral toothing 54

that is meshed with an external toothing 52 of the belt shaft 41, a fixed counter-bearing 16, and an electric motor 26. Axial loading of the spiral toothing 54 against the counter-bearing 16 due to a load acting on the belt shaft 41 in the belt withdrawal direction prevents rotation of the spiral toothing 54 (due to the helix angle of the spiral toothing 54 and engagement of brush set 60 with region 159; see col. 11, lines 37-63). The spring 58 and brush holder 56 inherently increase friction due to increased pressure as the spring is compressed.

The spiral toothing 54 is fixed against rotation on the carrier shaft 18 and appears to be fixedly disposed on the carrier shaft to the extent that the spiral toothing in applicants' device is.

Assuming, *arguendo*, that the spiral toothing 54 is not fixedly disposed on the carrier shaft, it would have been a matter of obvious engineering choice to fixedly dispose the spiral toothing on the carrier shaft and make the carrier shaft axially movable since this would have been a predictably operable alternative arrangement.

With regard to claim 22, the coefficient of friction of the spring 58 and brush holder are inherently non-linear in some range of pressures.

With regard to claims 28, inherent friction in the motor would provide a holding moment and the motor is capable of being energized to apply a holding moment to prevent rotation of the spiral toothing against at least some loads.

With regard to claim 29, the motor control in 28 adjusts the holding moment generated by the motor as a function of the load on the belt shaft (e.g., note col. 8, lines 30-50).

Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fernandez (U.S. Pat. No. 5,005,777) in view of Kanada et al (U.S. Pat. No. 4,546,933).

Fernandez is described above.

Fernandez does not disclose miter-wheel gearing coupling a drive shaft of the electric motor to the spiral toothing.

Kanada et al teaches coupling a motor and spiral toothing in a seat belt retractor via miter-wheel gearing 42, 44.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Fernandez with miter-wheel gearing coupling a drive shaft of the electric motor to the spiral toothing as taught by Kanada et al to permit a more compact arrangement of the motor parallel to the belt shaft.

Claims 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fernandez in view of Kanada et al as applied to claim 20 above, and further in view of Andrei-Alexandru et al (U.S. Pat. No. 4,652,781).

Fernandez does not explicitly disclose that there is a thrust bearing surrounded by a bearing housing between the spiral toothing 54 and gear 20 end of the carrier shaft 18.

Andrei-Alexandru et al teaches mounting a carrier shaft for a spiral toothing in a ball joint bearing (16, 17) in a bearing housing.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Fernandez with a ball joint or cup-shaped bearing in a

bearing housing formed by the seat belt retractor frame as taught by Andrei-Alexandru et al to support the carrier shaft 18 between spiral toothing 54 and gear 20 in a self-aligning manner.

### ***Response to Arguments***

Applicants' arguments filed 4/28/08 have been fully considered but they are not persuasive.

Applicants argue that the worm (spiral toothing) 54 in Fernandez is not fixedly disposed on shaft 18. However, the spiral toothing 54 in Fernandez appears to be fixedly disposed on shaft 18 to the extent that the spiral toothing in applicants' device is. Alternatively, it would have been an obvious alternative arrangement of parts in the Fernandez device to make the spiral toothing fixedly disposed on an axially movable shaft.

Applicants argue that brush holder 56 is not a friction increasing component within the context of the present application. However, due to the structure and disclosed operation of the Fernandez device, pressure is applied to spring 58 and brush holder 56 by spiral toothing 54. This pressure varies with operating conditions. Brush holder 56 engages, but does not rotate with the spiral toothing 54. The inherent friction between the brush holder 56 and spiral toothing 54 necessarily varies with the varying pressure as does the friction between spring 58 and brush holder 56 and between spring 58 and frame (counter-bearing) 16.

Contrary to applicants' arguments, an axial load on the spiral toothing results in blocking of rotation of the belt shaft. Note col. 11, lines 53-63 of Fernandez. The supporting force of the counter-bearing 16 in Fernandez is necessary for this blocking to occur since it limits axial movement of the spiral toothing. The spiral toothing is always free to rotate in the belt retraction direction while rotation in the belt withdrawal direction is blocked since the spiral toothing drives the belt spool in the retraction direction and is driven by it in the withdrawal direction as in applicants' apparatus.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. The new grounds of rejection were necessitated by the addition of the limitation to claim 17 requiring the spiral toothing to be fixedly disposed on the carrier shaft. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.



Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Haugland whose telephone number is (571)272-6945. The examiner can normally be reached on Mon. - Fri., 10:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (571) 272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/SJH/  
7/8/08  
/Peter M. Cuomo/  
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